

MILFORD PLANNING BOARD PUBLIC HEARING

January 17, 2012 Board of Selectmen's Meeting Room, 6:30 PM

Present:

Members:

Tom Sloan, Vice-Chairman

Kathy Bauer

Chris Beer

Steve Duncanson

Judy Plant

Susan Robinson, Alternate member

Staff:

Sarah Marchant, Town Planner

Shirley Wilson, Recording Secretary

Dan Finan, Videographer

PUBLIC HEARING:

1. In accordance with the requirements of NH RSA 675:3, the Milford Planning Board will hold a Public Hearing on Tuesday January 17, 2012, at 6:30pm in the Board of Selectmen's meeting room at the Town Hall. The purpose of the public hearing is to discuss proposed amendments to the Town of Milford Zoning Ordinance as follows:
 - Addition of the Commerce and Community District to Article VI, *Overlay Districts*
 - Addition of the West Elm Street Gateway District to Article VI, *Overlay Districts*.

MINUTES:

2. Approval of minutes from the 12/20/11 meeting, and 1/03/12 public hearing.

NEW BUSINESS:

3. **Michael R, Heather M, Matthew T, and Andrew Ciardelli – Stable Rd & Wyman Ln - Map 54, Lot 2-1.**
Public hearing for:
A proposed subdivision creating one (1) new residential lot,
Associated waivers from the Milford Development Regulations, Article V:
 - Section 5.06.K Wetlands Delineation
 - Section 5.06.L Delineation of slopes over 25%
 - Section 5.06.X Summary description of drainage & discharge(New application)

OTHER BUSINESS:

4. **Park Meadow, LLC / Airmar Technology Corporation – Meadowbrook Dr – Map 7, Lot 31.** Extension request for an approved site plan. (SPA#2009-01)
(Miscellaneous application)

Vice-Chairman Sloan called the meeting to order at 6:30PM. He introduced the Board, read the agenda, explained the process for the public hearing and then read the notice into the record.

In accordance with the requirements of NH RSA 675:3, the Milford Planning Board will hold a Public Hearing on Tuesday January 3, 2012, at 6:30pm in the Board of Selectmen's meeting room at the Town Hall. The purpose of the public hearing is to discuss proposed amendments to the Town of Milford Zoning Ordinance as follows:

- 1. Addition of the Commerce and Community District to Article VI, Overlay Districts*
- 2. Addition of the West Elm Street Gateway District to Article VI, Overlay Districts.*

PUBLIC HEARING

T. Sloan explained that tonight's meeting is a continuation of the prior public hearings for these proposed overlay districts which represent more than a year's work by the Planning Board, Planning Staff, and the EDAC Land Use Subcommittee. Together those groups along with many other people, including the professional staff at the Nashua Regional Planning Commission (NRPC), have worked extremely hard to come forward with some proposals that should enhance Milford's ability to grow into the future and to manage that growth as it occurs. Planning Staff sent out, as part of the public education process, postcards to over 240 recipients; land owners and businesses in the west side of town that were involved or abutting the land under consideration for these two pieces of the Zoning Ordinance. No additional input has been received by the Planning Board or Staff since the last hearing.

As there were technical difficulties, S. Marchant gave an overview of the two proposed zoning changes for the 2012 ballot instead of the planned presentation. Both of these overlay districts are tools that the Planning Board can use to encourage development in an area of town where we see the most potential future growth. The other part to this three pronged approach, that includes the two (2) proposed zoning districts under discussion tonight (the West Elm Street Gateway District and the Commerce & Community District) is the newly designated Economic Revitalization Zone (ERZ) that the Selectmen approved in September, which also incorporates these proposed overlay districts. An ERZ is a program provided by the State, that offers businesses which choose to expand their facilities and personnel, credits that can be used for the Business Profit Tax and Business Enterprise Tax.

Article VI, Overlay Districts; West Elm Street Gateway District (WESGD)

S. Marchant said the idea for this started several years ago when the Planning Board was working on the Nashua and Elm Streets Corridor District which focuses on the east side of town. This started off with a survey that was sent to the business and property owners in the district back in December, 2010 and then about 55 of those property and business owners came to a breakfast, hosted by Hitchiner Mfg., where they gave their ideas on what was important to them for guidelines to enhance this area and make it viable for development. That survey was then distributed to the public through the month of June and went to all the land use boards and has been available on the website. The data from that survey was used to craft the actual ordinance and the design guidelines document which will help facilitate applications through the Planning Board process. This way everybody can start closer to the same page on what is expected; architecturally, design-wise, landscaping-wise and for access management. The WESGD is a tool for the Planning Board in an area that is currently developed with minimal vacancy. The guidelines will enhance existing commercial and industrial development, promote new development, and manage traffic and access flow in the area.

Article VI, Overlay Districts; Commerce and Community District

S. Marchant explained that the Commerce and Community District, which is south of the WESTGD, includes the Brox property, land the town purchased in 2000 and recently signed an agreement with the Andover Development Group, Eecotech for. The district also includes a large amount of surrounding vacant lands. There are some excellent wetlands, a fen, some great resources and conservation trails that have all been worked into the district that utilizes a form based code, new to the community, and requires master planning of the area. It requires the infrastructure, the roadways, the utilities and the open space be planned at a very large scale. This will ensure that as this area develops, it does so in a very cohesive way that will not impede traffic in the future and help to

expedite the development process. It will set up something that will help entice development to come here to Milford instead of to Merrimack or Londonderry and is a plan designed to be carried out over the next twenty to thirty years.

K. Bauer asked for clarification about the Brox Property. S. Marchant explained that not all of the Brox Property is included in the Andover Group's agreement and described the industrially zoned area, to the north of the 101 Bypass that is for sale and for development. The Town also owns 80 acres to the east of Heron Pond School that was purchased with the intent of future expansion of school facilities, recreation facilities and other uses. To compliment that, the Planning Board has partnered with the Recreation Commission to develop a recreation chapter for the Master Plan. Surveys went out this past summer soliciting input on the town's long term recreation needs. K. Bauer said she heard there was an interested party for this property. S. Marchant said that the Commerce & Community District also includes the former police station which already has a road and access to utilities so it would be developed first and yes, there is an actively interested party in redeveloping that property. Among the upcoming warrant articles, there is one to create a fund for the monies from the sale of the police station to help begin the layout of the infrastructure in the Commerce and Community District that would eventually be paid back into the general fund without cost to the taxpayers. K. Bauer noted that it is important to realize that the money will be paid back to the town. K. Bauer brought up the new incentive for Powers St. S. Marchant said that an ERZ was just created in that area, so businesses who choose to expand can apply for credits towards their State taxes.

T. Sloan inquired about the three designated areas within the Community and Commerce District. S. Marchant gave a brief overview of the three areas;

- The Protective Reserve, the outermost area is essentially a large buffer for some of the most important wetlands in town.
- The Mixed-Use area, in the southern portion is designed to facilitate a mix of uses including lower density industrial, commercial and some residential development.
- The Core, centered around the 101 corridor, adjacent to our existing industrial/commercial area, focuses on a somewhat higher density of mixed uses including some residential. It is designed to contain the heavier development.

Vice-chairman Sloan then opened the discussion for public comment.

M. Foster stated that she owns a building in the WESGD and went to the original meeting. Guidelines are a great idea, which is what we were told they were; however, there are 77 shalls on these 12 pages. These are not voluntary, they are mandated and all of us at that meeting felt that these were going to just be guidelines. We were left with the impression that there wasn't going to be anything like this. T. Sloan said existing property and building owners in this area have grandfathered status in the gateway district. S. Marchant said there are guidelines associated with this separate ordinance document and only apply if you are adding onto or changing your property. The survey was the first step in the process and, as has been said all along, these guidelines were designed from the Nashua and Elm Street Overlay District which is also an ordinance with complimentary guidelines. M. Foster said the question was asked very specifically, if this would be in the zoning ordinance, at that first meeting and that was not the impression she got. S. Marchant said that has always been the intention from the very beginning. M. Foster said we felt something was afoot when you were doing all this just to give people guidelines. I just think this is a mistake in this kind of economy. T. Sloan asked if she could refer to any specifics in the design guidelines. M. Foster said they are very non-specific so an applicant would spend money on plans, bring them in and then the Planning Board could say we don't like the roof, or the materials or the exterior. S. Marchant said the document should really be looked at with the guidelines that show specific examples because it is a place to start discussion with the Planning Board on more level footing. M. Foster said to start discussion would mean another meeting. S. Marchant said we are trying to facilitate the process without multiple meetings and referenced previous plan submittals when developers came in with plans so far from what the regulations would allow for. The idea in doing this is to lay the groundwork initially and it has worked with the Nashua and Elm Street Corridor.

M. Foster said she personally thinks that this is an erosion of personal property rights and going back to that first meeting, it was disingenuous to not have been really upfront. S. Marchant said we told everyone from the get-go that this would be in the zoning ordinance and she was sorry that Ms. Foster felt that way. We will make sure to be very clear from now on. M. Foster said now that you have it in there, it will be rubber stamped for the voters. T. Sloan said there is nothing rubber stamped about this because the Planning Board has been working on this for months. These are open meetings. There has been public presentation and we're here to take input. M. Foster said she got her notice two days after the last hearing and she was here because she went online to read the document. T. Sloan said fortunately you are here to give input. That is what we want and we thank you for that.

T. Sloan reiterated that this is not rubber stamped and should the Board choose to post and publish this to the warrant, the voters of the town will be able to vote on it. The guidelines and requirements that are before us are designed to put forth development that reflects the character of the town today and moving forward. It is not designed as an impediment for somebody. Developers will have these guidelines prior to going before the Planning Board and they will know what elements will need to be incorporated into their plan, so that when they do come forward, there will hopefully be less delay and more ability to develop what you choose to develop while at the same time considering the input from the community for the guidelines that are here in this document.

M. Foster said she can see it is well intended but she can also see that it is so subjective and it all depends on the makeup of the Planning Board. She has been to Planning Board meetings and in particular a Board of Adjustment meeting that ended up in court, because two professional traffic reports were ignored in favor of the musician's envelope test. It was thrown out of court because it was so absurd.

M. Foster brought up underground utilities and asked if, when and who would mandate them. T. Sloan said it would be open to discussion and some debate but would depend largely on what currently exists. It wouldn't make sense to put one set of utilities underground with all the other utilities around it above ground. It wouldn't be practical in certain instances. M. Foster said you're assuming that everyone on the Board is practical and reiterated that this is an erosion of property rights. This is so subjective it is going to cost people a lot more money. T. Sloan said there are existing development regulations in place that require certain elements. This isn't necessarily any different from those documents and may actually provide flexibility for some of the requirements. If you compared the two documents, you may find that this is less burdensome overall than our current regulations and more facilitating to development. If you look at what currently exists, you may find this to be less burdensome than you perceive it to be at this moment. M. Foster said time will tell.

Vice-chairman Sloan closed the public portion of the hearing by saying that the Board appreciated the input.

C. Beer made a motion to post the proposed amendments, as written, to the March 2012 warrant. S. Duncanson seconded and all in favor.

C. Beer made a motion to publish and send the proposed amendments, as written, to the March 2012 warrant. S. Duncanson seconded and all in favor.

MINUTES:

K. Bauer made a motion to approve the minutes from the 12/20/11 and 1/3/12 meetings, as presented. C. Beer seconded and all in favor.

NEW BUSINESS:

Michael R, Heather M, Matthew T, and Andrew Ciardelli – Stable Rd & Wyman Ln - Map 54, Lot 2-1.
Public hearing for: a proposed subdivision creating one (1) new residential lot, and associated waivers from the Milford Development Regulations, Article V: Sections 5.06.K Wetlands Delineation, 5.06.L Delineation of slopes over 25%, and 5.06.X Summary description of drainage & discharge.

No abutters were present.

Vice-chairman Sloan recognized:

Alec Buchanan, Jordan, Maynard & Parody, PLLC

Andrew Ciardelli, Owner and applicant

David O'Hara, David M O'Hara & Associates

S. Wilson read the abutters list into the record. C. Beer made a motion that this application did not pose potential regional impact. J. Plant seconded and all in favor. C. Beer made a motion to accept the application. S. Duncanson seconded and all in favor.

A. Buchanan, representing the Ciardelli's, presented plans dated 11/17/11 and described the proposed subdivision.. The proposed access agreement for access off Wyman Ln through a right-of-way and onto the mother lot 54/2-1 has been drafted and will be submitted to staff for review. The application complies with all subdivision regulations and the Staff report dated 1/17/12 which didn't indicate any issues. We have applied to NH DES for the appropriate subdivision approval. The applicant is also asking for three waivers, as indicated in the notice of hearing.

- A waiver from 5.06.K, *Wetlands delineation* has been requested, primarily because there aren't any wetlands on the property.
- A waiver from 5.06.L, *Delineation of Slopes greater than 25%*, is requested for the balance of the acreage that is not being developed at this time. Slopes are shown on the proposed lot.
- A waiver from 5.06.X, *Summary Description of Drainage and Discharge*, is requested because it would be burdensome for the applicant for the purposes the Board needs it for. The lot itself shows its own drainage.

C. Beer referenced the note on the ZBA Variance approval letter that the location of the lot may change. K. Bauer said it was in the ZBA minutes and she would question that also. A. Buchanan said that they weren't sure of the exact physical location of the area to be subdivided off when they went before the ZBA and only presented a conceptual plan. This final plan is consistent with what was presented to the ZBA and this is the final location of the lot.

T. Sloan inquired about the area for the waivers. A. Buchanan explained that the whole lot is subject to the regulations and they are subdividing only three (3) + acres out of the thirty-eight (38) acre parcel. D. O'Hara said the topography is shown on the new lot and as a result you can see how the drainage would flow. It is such a small impact that we are asking for a waiver from the drainage description. The small lot has been surveyed.

There was some confusion as to the waivers and after a lengthy discussion it was clarified that any waivers granted tonight for this specific subdivision do not carry forward for any future development. A. Buchanan stated that the waiver requests for 5.06.K and 5.06.L are for the 34.88 acre balance of the lot, whereas the request for the drainage 5.06.X is for the entire parcel which would include the new lot. S. Marchant noted that the Staff memo may have added some confusion and may be incorrect. T. Sloan said that a stormwater management permit will be required for the disturbance and may have some drainage delineated if a plan is required. S. Marchant added that the permit will be filed at the time a building permit is obtained and will encompass all drainage for the proposed driveway and building on the new lot.

C. Beer inquired if the stormwater permit will cover everything that the waiver is relieving. S. Marchant said that the permit will cover any area that is disturbed; the new driveway and the new lot, but it would not cover the larger 34.88 acres. The wording in the Development Regulations requires that a brief description of drainage patterns be submitted, not an extensive description or the topography shown. The idea was originally put forth by the Conservation Commission to help understand if there were any feeders or something that could impact land downstream and it is flexible in its intent. There isn't anything necessarily on this property. C. Beer said he can understand the benefit for not having to do this for the remainder of the lot because it could require surveying and disturbing the entire lot to determine the drainage patterns, but this waiver includes the new 3.18 acre lot as well, when the applicant could submit a brief statement that claims the water drains to the east.

S. Marchant read a letter from Tim Ferwerda, certified wetlands scientist at Meridian Land Services dated 12/5/11 into the record stating that there are no wetlands on the 3.18 acre parcel. D. O'Hara stated that there are no slopes over 20% on the 3.18 acre parcel.

Vice-chairman Sloan opened the hearing for public comment on the requested waivers; there being none, the public portion of the meeting was closed.

C. Beer made a motion to grant a waiver from Development Regulations 5.06.K, wetlands delineation, on the 34.88 portion of 54/2-1 that will not be disturbed by this development. K. Bauer seconded and all in favor.

S. Duncanson made a motion to grant a waiver from Development Regulations 5.06.L, to show slopes over 25%, on the 34.88 remainder portion of 54/2-1. J. Plant seconded and all in favor.

T. Sloan read Development Regulations 5.020 and asked that the applicant submit a revised waiver request indicating the reasons for the request.

A Buchanan asked to withdraw the waiver request for 5.06.X, *Description of Drainage Downstream and Upstream*.

T. Sloan made mention that the construction of a driveway by ordinance indicates by definition that this is a major subdivision. Staff has indicated that this isn't necessarily the case and it would have no bearing on this application. S. Marchant said the definition of what constitutes a major subdivision requires the installation of a new public or private road and a driveway is not a road. T. Sloan then inquired about the new open space ordinance and referenced the easement through the Wyman Ln open space. S. Marchant said the easement was originally dedicated as a right-of-way with the original subdivision and is not a newly created one on top of the open space but rather designed to be there as part of that subdivision approval. It was approved under the old regulations but would still meet the minimum open space requirements of 30% with that right-of-way.

K. Bauer inquired about the length of the driveway and asked if it needs to be improved for emergency vehicles. D. O'Hara stated that these existing driveways have been there for many, many years and there will be no new construction other than possibly some widening. A. Ciardelli said the existing driveway terminates at about 800ft and it would take approximately another 400-500 ft of gravel to finish the driveway so it would be about 1,300ft from Wyman Ln. We will make minor improvements to it when the house is built, but nothing now. D. O'Hara said the driveway is approximately ten (10') ft wide now with a grade of no more than 6% and sufficient for emergency vehicles. S. Marchant added that the access easement is thirty (30') ft wide and the Fire Department did not express any concerns about the width of that easement, at this time. Any minor improvements will have to be approved as part of the driveway permit that the Town will have to issue and approve. Most driveways are between 10' and 12' wide for new permits that are approved. K. Bauer said that a 10ft width makes her a little nervous especially with snow pushed out to the sides and allowing only one way emergency traffic when you have possibly ambulance and fire vehicles. A. Ciardelli clarified that the actual driving surface is ten (10') ft but there is an additional six or ten feet not necessarily suitable driveway material but wide enough for two vehicles to pass. There aren't any trees on either side of the driveway adequate space to push snow along the sides of the driveway.

Vice-chairman Sloan opened the hearing for public comment; there being none, the public portion of the meeting was closed.

C. Beer made a motion to grant approval of the application with the following conditions; that the locust map be corrected to show Milford instead of Amherst at the Hollis border, that note #14 be revised to remove reference to the waiver from 5.06.X, and the conditions listed on the staff memo. S. Duncanson seconded and all in favor.

Park Meadow, LLC / Airmar Technology Corporation – Meadowbrook Dr. – Map 7, Lot 31. Extension request for an approved site plan. (SPA#2009-01)

Vice-chair man Sloan recognized:
Steve Christensen, Airmar Technology Corporation

T. Sloan gave an overview of the original Site Plan approval from 2009 that will expire on 1/20/12 and said the applicant is hoping to break ground this spring as the economy allows.

Vice-chairman Sloan opened the hearing for public comment; there being none, the public portion of the meeting was closed.

C. Beer asked if the site plan had changed from the original approval. S. Marchant replied that the plan has not changed at all.

K. Bauer commented that the Board was very pleased with the original application and the fact that the applicant had worked with the Conservation Commission to make such a positive and generous contribution.

K. Bauer made a motion to grant a six month extension. J. Plant seconded and all in favor.

C. Beer made a motion to adjourn the meeting at 7:35PM. S. Duncanson seconded and all in favor.

MINUTES OF THE JAN 17, 2012 PLANNING BOARD PUBLIC HEARING APPROVED FEB 21, 2012